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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

K.H., as guardian for her minor daughter
D.H.; K.H, individually; and G.H.,
individually,

Plaintiffs,

vs.

OLYMPIA SCHOOL DISTRICT, a public
corporation; FREDERICK DAVID
STANLEY, individually; BARBARA
GREER, individually; WILLIAM V.
LAHMANN, individually,

Defendants.

NO.

COMPLAINT FOR FOR FEDERAL
CLAIMS UNDER 42 U.S.C. § 1983 AND
TITLE IX

Demand for Jury Trial

COMES NOW Plaintiffs, by and through their attorneys Darrell L. Cochran, Kevin M. Hastings, and the law firm of Pfau Cochran Vertetis Amala PLLC, to bring a cause of action against the defendants, and allege the following:

COMPLAINT FOR FEDERAL CLAIMS UNDER 42
U.S.C. § 1983 AND TITLE IX

I. INTRODUCTION

1. In August of 2005, the Olympia School District (the “District”) hired a man named Gary Shafer to be a new bus driver. He was 26 years old, unmarried, no children, and no experience in bus driving, but he proclaimed his “love of children” as a sound basis for his employment. The District Transportation Director at the time, Fred Stanley, conducted an interview of less than thirty minutes, made no reference checks, made no checks with past employers, made no initial criminal checks but hired him nonetheless.

2. The position of bus driver in the District calls for a bus driver to spend hours alone with the school children, including many children who are as young as four and in their formative years of communicating thoughts and events. Shafer is now in prison for molesting school girls who were the youngest and most vulnerable at the District. Shafer has admitted to sexually molesting at least 30 District children and will neither “admit nor deny” his victim count could be 75 children or more.

3. Between 2005 and 2011, the District knowingly allowed its employee Gary Shafer to climb aboard hundreds of midday bus routes for pre-kindergarten, kindergarten, and special needs children in the district, and then “ride along” with girl passengers. As another district driver drove the school bus, Shafer was allowed to ride along on buses that transported the Districts most vulnerable students. The District has repeatedly confirmed that it never had a reason to distrust a bus driver’s motivation for devoting unusual attention to small girls on buses and did not care why Shafer wanted to ride along with the girls on those buses.

4. The District had no legitimate purpose for allowing Shafer to ride along and sit with these vulnerable girls: They did not pay Shafer to carry out work assignments on the buses, they did not assign any tasks for which he could legitimately volunteer, they did not

1 track the times, dates or buses in which he rode along, nor did they ever question Shafer or the
2 drivers about what Shafer had been doing on the buses with these young girls. Shafer was an
3 unmarried, twenty-six year old man without children of his own who started spending all of
4 his free time riding along on school buses without pay so he could interact with four and five
5 year old girls, including special needs students with learning or speech delays.
6

7 5. The District and its administrators were deliberately indifferent in their
8 disregard for what Shafer was doing with the girls on the buses. The District knowingly
9 allowed Shafer unfettered access to identify helpless girls, then to groom and sexually molest
10 kindergarten, pre-kindergarten, and special needs children while they were riding to and from
11 school on the midday bus. A number of bus drivers in the District knew Shafer was sitting
12 with the young girls, giggling with the girls, tickling the girls, and violating long standing
13 industry and common sense codes of conduct for bus drivers and small girls on buses.
14

15 6. The District and its administrators decided against putting in place policies and
16 procedures to ensure that only those assigned to drive the bus were on the bus, which directly
17 caused an unreasonable danger of Shafer. Compounding the matter, the former Transportation
18 Director Fred Stanley and Former Transportation Training Coordinator Barbara Greer
19 knowingly allowed Shafer to ride along on whatever bus he wanted, regardless of whether he
20 had an educational purpose to be there. Stanley and Greer ignored challenges to whether
21 Shafer should be riding along on the buses and also ignored concerns that Shafer had begun
22 changing his own bus routes at an alarming pace, alarming for the potential Shafer was
23 changing routes because of confrontation with students he had been grooming and molesting
24 on his own assigned routes.
25
26

7. The District's acts and omissions demonstrate a deliberate indifference to the rights of the children riding on those school buses. At the time of Shafer's employ, the District knew based on longstanding literature that child molestation was a major threat to students. By March 17, 2010, the District was even given a presentation by its risk management company, Canfield, showing that bus drivers constituted 12 percent of the total number of sexual assaulters within the school context – a shocking number given the relatively small number of bus drivers compared to teachers and administrators.

8. The District and its administrators ignored the literature and statistics that children, particularly on buses, were at risk of being sexually abused. The District and its administrators also ignored glaring red flags that Shafer was harming children, including, notice from a concerned parent that a bus being driven by Shafer was over 30 minutes late and his daughter came home refusing to ride the bus; notice from drivers that Shafer would pullover his bus for no reason during the middle of routes; notice that he would sit on buses with children in his lap; notice that he was constantly changing bus routes; and notice that he was watching pornography in the breakroom. The District's misconduct as alleged in this complaint was done in deliberate indifference to the safety and well-being of children.

II. PARTIES

9. Plaintiff D.H. Plaintiff D.H. is a minor sexual abuse victim. At all relevant times, D.H. was a resident of Thurston County, Washington.

10. Plaintiff K.H. K.H. is the legal guardian and mother of Plaintiff D.H. At all relevant times, both K.H. was a resident of Thurston County, Washington.

11. Plaintiff G.H. G.H. is the legal guardian and father of Plaintiff D.H. At all relevant times, G.H. was a resident of Thurston County, Washington.

12. Defendant Olympia School District. Defendant Olympia School District is a public corporation organized under the laws of the State of Washington and is authorized to be sued in such corporate capacity for its acts and those of its agents and employees. The District has its primary place of business in Thurston County, Washington, and is subject to the provisions of Title 28A of the Revised Code of Washington. At all times material, the District operated, and otherwise exercised control over, the public schools within the District, for the benefit of the school-aged children residing in Olympia School District. The District is responsible for all conduct of its agents and employees with respect to the attendance of D.H. at school in the District and as a bus passenger. At all relevant times, the District had supervision and control of D.H. in loco parentis.

13. Frederick David Stanley. Defendant Fred Stanley was the District's former Transportation Director during all relevant times. Defendant Stanley is being sued in his individual and official capacity for his actions under color of state law.

14. Barbara Greer. Barbara Greer was the District's former Training Director during all related times, a responsibility that included dispatching for special needs transportation routes. Defendant Greer is being sued in her individual and official capacity for her actions under color of state law.

15. William Lahmann. Defendant William V. Lahmann was the District's former Superintendent during the 2001 to June 2012 time period. Defendant Lahmann is being sued in his individual and official capacity for his actions under color of state law.

III. JURISDICTION AND VENUE

16. Jurisdiction. Subject matter jurisdiction is predicated on federal question jurisdiction (28 U.S.C. §1331 and § 1343) due to claims under 42 U.S.C. §1983, and supplemental jurisdiction under 28 USC §1367.

17. Venue. Venue is proper in this district under 28 U.S.C. § 1391(b), since all defendants reside or resided in this district and the events giving rise to the claims occurred in this district, in Thurston County.

IV. FACTS

18. Facts; Hiring of Shafer and Deliberate Indifference to Child Safety. In August-September 2005, the District, through its agents Stanley and Greer, conducted a 30 minute interview of Shafer and hired him later that day without checking references or past employers. Shafer's past employers included a security company, where he was caught with pornography on his work computer, and the United States Marine Corps, where he was dishonorably discharged for lying. During his interview, he said that he would make a good bus driver because he "love[s] [] children" and because he "like[s] being around kids." His goal was to "get to know the kids." When asked whether he was prepared to accept the responsibility for the lives of the students on the bus, he said, "yes, kind of scary." The District and its agents, including Defendants Stanley and Greer, then allowed Shafer to drive school buses alone on several occasions before his background check was cleared, done with deliberate indifference to the safety and welfare of children and done in direct violation of Washington law.

19. Facts; Danger Creation and the Deliberate Indifference of Transportation Director Fred Stanley. Beginning right away, Shafer asked former Transportation Director

1 Fred Stanley whether he could volunteer to ride along with other drivers on their midday
 2 kindergarten, pre-kindergarten, and special needs routes because he liked being around the
 3 kids so much, especially the District's most vulnerable. Stanley gave Shafer permission to
 4 ride along, and then by permission and acquiescing, gave Shafer complete authorization for
 5 his ride alongs, later claiming that he never had reason to distrust Shafer's motivations for
 6 wanting to ride along with the vulnerable children. Under Stanley's blanket permission,
 7 Shafer was able to ride along on hundreds of school buses whenever and wherever he wanted.
 8 Stanley never assigned Shafer to these rides, never checked on what he was doing on these
 9 rides, never kept track of how often or with whom he was riding, and never spoke to any
 10 driver about what Shafer was doing during these ride alongs. Furthermore, Shafer was never
 11 paid for his hundreds of ride alongs or for helping to manage the kindergarten, pre-
 12 kindergarten, and special needs passengers; instead, the Stanley allowed Shafer to do it
 13 because he was deliberately indifferent to the danger he created in doing.

16 20. Facts; Danger Creation and the Deliberate Indifference of Transportation
 17 Director Fred Stanley and the District. Former Transportation Director Fred Stanley
 18 admitted that Shafer was not supposed to be on buses without specific authorization from
 19 him and an educational purpose, and yet he did not institute any controls, create any policies,
 20 or enforce any existing rule to ensure that Shafer was not riding along on kindergarten, pre-
 21 kindergarten, and special needs routes without authority and an educational purpose. As he
 22 has previously testified:

24 Q Right. Did you express clearly, to all of the drivers in the Olympia
 25 School District transportation department, that they should not allow a
 26 grown man, whether he was an employee or not, get on the bus without
 express authorization and an educational purpose for being on the bus?

A I would say maybe no, because it was happening.

1 Q And in that way, your training, policies, and practices, failed to control
2 Gary Shafer, right?

3 A Yeah. In looking back on it, probably, yes.

4 Q At the time you should have been looking at that, right?

5 A Well, I had no reason to be looking at it.

6 * * *

7 Q Did you create a policy, after Gary Shafer started riding around on
8 buses, to let drivers know that he had to have authorization and an
9 educational purpose to be on their buses in the midday?

10 * * *

11 A No.

12 21. Facts; Danger Creation and the Deliberate Indifference of Transportation

13 Director Fred Stanley and the District. In addition to never creating a policy, Fred Stanley did
14 not do anything to see what Gary Shafer was doing on the dozens of buses he was riding
15 around on. As he testified:

16 Q With respect to the ride-alongs that he was doing in each and every
17 year, 2005-2006 and every year leading up to his suspension in January
18 of 2011, what did you do to check in to see what Gary Shafer was
19 doing all those times that he was riding along on these midday
20 kindergarten, pre-K, and special needs buses?

21 A Nothing.

22 * * *

23 Q For example, did you ask them whether he was sitting with
24 kindergarten girls on the bus?

25 A No.

26 Did you ask him whether he was sitting in the front right passenger's
seat by himself?

A No.

Q Did you ask them if he was tickling them on the seats?

A No.

1 Q Did you ask if he was sharing jokes on his phones with the
kindergarten girls?

2 A No.

3 Q Did you ask him if he was really serving in a purpose in being on the
4 bus other than just to be there?

5 A No.

6 * * *

7 Q Because, ultimately, you didn't care about the reason he was on the
8 bus, right?

9 A No.

10 22. Facts; Deliberate Indifference of Transportation Director Fred Stanley.

11 Stanley has repeatedly testified that he had "no reason to be looking" at what Shafer was
12 doing because he "trusted" all of his drivers for having passed a background check. Stanley
13 deliberately ignored the potential danger presented by his driver's conduct even though he
14 knew that drivers had historically engaged in inappropriate behavior, including sexual
15 harassment and physical abuse. Stanley's practice in knowingly allowing Shafer to ride along
16 on school buses for no reason and without an educational purpose was done in complete
17 disregard for the known and obvious consequence that Shafer would abuse children.

18 23. Facts; Shafer's Grooming Tactics to Identify Children Victims and the
19 District's Danger Creation and Deliberate Indifference. In an effort to coordinate his access to
20 young girls, Shafer used several tactics. He would use the ride alongs to identify his targets
21 among the kindergarten, pre-route or keep riding along with his victims on buses being driven
22 by other drivers who would allow him as an unauthorized guest. Shafer frequently and often
23 abruptly changed his driving assignments, either looking for victims or escaping potential
24 problems he created by molesting children on his buses. In total, he switched routes a record
25 18 times over five-and-one-half years, including one abrupt change asking for a route change
26

1 and then announcing he was leaving for a trucking job. Compared to other divers, who would
 2 change routes at most a few times over decades, Shafer's pattern of changing routes was an
 3 obvious red flag. Shafer would sexually abuse girls, including D.H., while riding along with
 4 another driver without an official purpose, or he would sexually abuse them by pulling the bus
 5 over or arriving at stops early so that he would have down time with the girls. He took full
 6 advantage of Defendant Stanley's "open door" ride along policy that directly created the
 7 danger of allowing him to access the young girls on other drivers' kindergarten, pre-
 8 kindergarten, and special needs routes.

10 24. Facts; Notice, Red Flags, and the District's Danger Creation and Deliberate
 11 Indifference. Shafer had been driving his assigned route when, in November 2006, he
 12 suddenly put in for a route change and then announced that he would be leaving for a higher-
 13 paying job as a long-haul trucker. He told many bus drivers that he was having financial
 14 problems and needed more money. The reality was that he abruptly changed from a special
 15 needs bus route because over concerns over getting caught for sexual abuse. Even though he
 16 successfully completed the trucking program at the top of his class, Shafer left the trucking
 17 work immediately and returned to the bus barn to work part-time for the District. In Shafer's
 18 own words, "I was going to be doing long haul truck driving starting last winter but I decided
 19 not to for various reasons even though it would have been a lot of money."

22 25. Facts; Notice, Red Flags, and the District's Danger Creation and Deliberate
 23 Indifference. When confronted by a fellow bus driver about why he left his long haul trucking
 24 job despite his money woes, Shafer told his co-workers that he returned as a part-time school
 25 bus driver because he missed contact with children. From this incident and others, Shafer's
 26 fellow bus drivers found him very strange and unusually interested in children. He was being

described as “odd” by at least one school counselor and was reportedly observed viewing child pornography on a bus barn computer by a fellow driver. Shafer has also admitted and has been seen by other bus drivers pulling his bus over to the side of the road or in parking lots for no apparent reason. At least one driver raised concerns with the administrative office about Shafer being parked for no apparent reason during a route. Even Fred Stanley himself has admitted that he confronted Shafer about pulling over his buses for no reason.

26. Facts; Notice, Red Flags, and the District’s Danger Creation and Deliberate Indifference. In 2008, it is understood that a kindergarten boy went home one day after school and told his mother that the school bus driver was making farting noises, tickling he and another student, and otherwise horsing around with them while on the bus. The boy told his mother that the driver pulled over the school bus to engage in these activities and that they were the last two on the bus. The mother was concerned about the bus driver’s behavior and conduct. A short while later, the boy said that the same bus driver again pulled stopped the bus and was horsing around with he and another kindergarten aged boy. At this point, it is understood that the concerned mother called the District Transportation Department and told them about the bus driver’s inappropriate behavior while driving her son to and from school. The bus driver was Gay Shafer. The District and its agents did nothing.

27. Facts; Notice, Red Flags, and the District’s Danger Creation and Deliberate Indifference. In the fall of 2009, McLane Elementary School bus driver Karen Nelson became ill and the District used sub drivers to cover the route. Shafer began targeting kindergarten girls for abuse on the route by riding along with various sub drivers. He also drove the bus as a substitute bus driver. On one occasion that he was driving, Shafer dropped off a young girl

1 who as so shaken by the experience that she told her dad, Kevin Gearheart, that she never
2 wanted to ride the bus again.

3 28. Facts; Notice, Red Flags, and the District's Danger Creation and Deliberate
4 Indifference. Mr. Gearheart called the District Transportation Department about concerns that
5 a male substitute driver was dropping his kindergarten daughter off alone, a half-hour late,
6 and so traumatized that she refused to ride the bus any longer. Despite the father's deep
7 concerns and repeated calls, the District downplayed any potential for wrongdoing and
8 performed no investigation; it simply reiterated that all bus drivers receive background
9 checks, and therefore, there was no need to do anything further. Tragically, after Shafer's
10 molestation surfaced in 2011, Mr. Gearheart immediately recognized Shafer's face as the
11 driver who had left his daughter traumatized from the bus. He confronted the District about
12 Shafer's presence on the bus, but the District lied and said that Shafer never drove that bus.
13
14

15 29. Facts; Red Flags and the District's Danger Creation and Deliberate
16 Indifference. District employees discussed these "red flags" but nothing was done to monitor
17 or investigate Shafer. By ignoring evidence that Shafer was acting inappropriately, including
18 actual reports that Shafer was inappropriately touching and otherwise engaging in peer-to-
19 peer activities with children on the school bus, commonly known as sexual grooming, as well
20 as ignoring evidence of Shafer's obsessive fixation on routes for kindergarten, pre-
21 kindergarten, and special needs children, the District acted with deliberate indifference toward
22 the safety of children in its custody and control, including Plaintiff D.H., and interfered with
23 their education.
24

25 30. Facts; Sexual Abuse of D.H. and the Defendants' Continued Deliberate
26 Indifference Towards the Danger they Created. In the fall of 2010, Shafer employed his

1 targeting and grooming strategy on many routes, including a special needs bus that served the
2 McKenney Elementary pre-school program. The minor plaintiff, D.H., was a passenger on
3 that bus. Shafer drove the bus as a substitute on multiple occasions and rode along as an
4 unauthorized passenger. It was on this bus that he sexually abused D.H. on multiple
5 occasions.

6
7 31. Facts; Sexual Abuse of N.L. In late December 2010, the Thurston County
8 Sheriff's Department received a report that Olympia School District bus driver Gary D.
9 Shafer sexually assaulted a kindergarten girl named N.L. on a bus driven by fellow bus driver
10 Mario Paz. Shafer was riding along with Paz to "learn the route" and had the kindergarten girl
11 in his lap while seated behind the driver. Shafer sexually abused N.L. while she was in his lap,
12 and N.L. disclosed the abuse to her mother, who in turn contacted the District.

13
14 32. Facts; Shafer's Admitted to Molesting Scores of Children at the District. In or
15 around March 21, 2011, Shafer was hoping to obtain a reduced criminal sentence through
16 Washington's Sex Offender Special Sentencing Alternative ("SOSSA"). As required by
17 SOSSA, Shafer had to submit to a psychosexual evaluation, where he needed to admit to his
18 past sexual deviancies and then take a polygraph. During this evaluation, he admitted to
19 sexually abusing literally dozens of little girls while they were riding to and from school on
20 the bus; Shafer identified some of his minor victims by their full name, some by a physical
21 description, and some by their first name; Shafer admitted to targeting kindergarten, pre-
22 kindergarten, and special needs bus routes since the start of his employment with the District;
23 Shafer admitted to regularly spending unpaid free time riding along on others' buses to groom
24 and assault children and no one from the District ever confronted him or prevented him from
25 accessing children in this fashion; Shafer admitted to pulling his own buses to the side of the
26

1 road to molest young girls on his bus; Shafer admitted to detaining young girls in his bus after
2 arriving to destinations early; Shafer admitted to accessing pornography on the District bus
3 barn's computers on a regular basis without the District ever tracking, logging, or confronting
4 him about it; Shafer admitted to masturbating in the bus barn and on the busses; and finally,
5 Shafer admitted to photographing, videotaping, and sexually assaulting up to 30 young
6 District students while working in his capacity as an Olympia School District bus driver.

7
8 33. Facts; Shafer Admissions to Molesting D.H. In sworn testimony, Shafer
9 admitted to molesting D.H. on several occasions. Based on his own statements, Shafer's
10 abuse of D.H. included digitally touching her genitals, as well as licking them on at least one
11 occasion.

12 34. Facts; Danger Creation and the Deliberate Indifference Toward the Children
13 on School Buses. Despite clear evidence of Shafer's widespread sexual abuse on school
14 buses, the District has continuously denied any responsibility, asserting that it had no reason
15 to distrust any of its bus drivers. The District's former Transportation Director, Fred Stanley,
16 recently claimed that "[t]here's no reason for a bus driver not to sit with children. . . . We hire
17 good people and everybody has been background checked and we have no reason not to trust
18 our employees." This alarming attitude was the milieu that allowed Shafer unlimited access
19 to abuse scores of children on school buses. This attitude disregarded known red flags with
20 Shafer, known literature on the risks that sexual molesters are among the ranks of bus drivers,
21 and ultimately, the known or obvious consequence that Shafer would abuse children given the
22 opportunities created. The resulting harm as complained of in this complaint was due for no
23 other reason than the affirmative danger that Defendants created in this lawsuit by knowingly
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25
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1 allowing Shafer to have unlimited access to ride alongs and other opportunities to sexually
2 groom and molest children.

3 35. Facts; Deliberate Indifference to the Welfare of Children. When the factual
4 verifications of Shafer's molestations began circulating, and people began to push for answers
5 as to how it all happened Transportation Department Director Fred Stanley refused to
6 entertain the possibility that Shafer would have molested the children and sent a chilling
7 threat to the bus drivers:
8

9 These rumors [about Shafer] are slanderous and the people spreading them
10 could and I feel should be charged with a crime and prosecuted to the fullest
11 extent of the law. If you are one of those spreading this information and I hear
12 it, I will report it to the proper authorities and I want to encourage those that
13 have told me they are highly offended by this kind of behavior to do the same.

14 36. Facts; Danger Creation, Deliberate Indifference, and Giving Shafer
15 Unrestricted Access to Molest Children. The District's former Transportation Training
16 Coordinator, Barbara Greer, endorsed Stanley's statements. She stated that the District has not
17 adopted a policy regarding where male bus drivers riding along must sit alone because "we
18 trust our drivers, and we trust their judgment." Greer added, "[after the arrest hit the news] our
19 role was to be supportive of . . . the drivers because we knew that the drivers were going to be
20 very upset." When asked whether common sense would have advised bus drivers to be
21 mindful of obvious signs of grooming and risky situations, Greer replied, "I don't deal in
22 common sense, sir."

23 37. Facts; Danger Creation, Deliberate Indifference, and Giving Shafer
24 Unrestricted Access to Molest Children. Former District Superintendent William
25 Lahmann, the official ultimately responsible for the safety of the children at the time of the
26 abuse, also admitted to blind and unsupported faith in the District's entire group of bus

1 drivers, even if at the expense of children. When challenged whether bus driver Mario Paz
 2 acted appropriately in a situation where multiple girls on his bus were sexually assaulted by
 3 his friend Shafer in the seat immediately behind his, Lahmann responded, “I don’t know what
 4 he did or didn’t do, so my belief is that he was acting responsibly. I haven’t heard otherwise. .
 5 . . I make the assumption that he acted properly.”

6
 7 38. Facts; Danger Creation and the Deliberate Indifference of Defendant Lahmann
 8 and Defendant Greer. Former Superintendent Lahmann and former Transportation
 9 Coordinator Greer were complicit in Stanley’s decision to allow Shafer unrestricted and
 10 unmonitored access to ride alongs. Lahmann has previously provided sworn testimony that
 11 there was no reason not to allow Shafer unrestricted an unmonitored access. Greer previously
 12 testified that there was no reason to distrust Shafer. Their complicity created a perilous
 13 situation for D.H. and was done in disregard to the known or obvious consequence that Shafer
 14 would sexually groom and molest them.

15
 16 39. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training. The
 17 District, Stanley, Greer, and Lahmann failed to properly train its employees on how to
 18 recognize obvious signs that Shafer was using school buses to molest young vulnerable girls.
 19 In 2006, the Washington Office of Superintendent of Public Instruction distributed a statewide
 20 publication entitled “What every employee must be told in school districts,” a publication
 21 concerning the warning signs of sexual grooming of children. District bus drivers did not
 22 receive training on this publication or the information contained within it.

23
 24 40. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training.
 25 Later, in the spring of 2010, the school year before Shafer was arrested for his molestations,
 26 the District’s superintendent, Defendant Lahmann, and other District administrative-level

1 personnel received professional boundaries training. This training included a valuable
2 PowerPoint presentation on awareness of the dangers school personnel pose as potential child
3 molesters, and included slides emphasizing that District employees had to “be on guard”
4 regarding the behavior of their fellow District personnel, “even though they’re school
5 employees who have gone through background checks.” In particular, one of the slides stated
6 that 12 percent of *all* school-related molestation charges each year involved school bus
7 drivers, even though they comprised a relatively small percentage of the total number of
8 District employees. Another slide was entitled “Five-Step process” and discussed sexual
9 grooming behaviors of which District employees needed to be aware. One of the steps
10 consisted of identifying a vulnerable child and engaging that child in peer-like involvement.
11 Other steps identified by the slide were desensitizing the child to touch and isolating the child
12 in out-of-sight spots.
13
14

15 41. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training. But
16 in an act of deliberate indifference toward the safety of children on school buses, the District
17 and its top administrators, including Defendant Lahmann, chose against providing the
18 valuable boundary invasion training to District bus drivers. The District specifically chose not
19 to train its employees on the PowerPoint presentation or the information contained therein
20 because it “felt people would reject some of the negativity of the message.” Instead, the
21 District developed a one-page “pyramid” that lacked the specific and valuable information
22 contained within the PowerPoint presentation, such as the risk of child molestation posed by
23 certain groups of school personnel, and its plan was to train the District’s Transportation
24 Director, Fred Stanley, on boundary invasions so that he could then implement a training for
25 the bus drivers. But in another act of deliberate indifference toward the safety of children on
26

1 school buses, Stanley and his assistant knowingly skipped the watered-down boundary
2 invasion training, and it was never brought to the transportation department. Compounding
3 matters, Lahmann failed to follow-up with the various departments to ensure that his trickle
4 down plan was working, another act of deliberate indifference. The District failed to train its
5 bus drivers on even this obtuse “pyramid” until after Shafer’s arrest. According to one veteran
6 District bus driver, Dale Thompson, knowing that 12 percent of school personnel molesting
7 children were bus drivers would have been useful because he otherwise “couldn’t imagine”
8 and would not suspect a fellow bus driver of committing such an act.

10 42. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training.

11 Similarly, the District adopted a “professional boundaries” policy in spring of 2010 but failed
12 to advise bus drivers that any such policy existed. The policy’s stated purpose was to “provide
13 all staff, students, volunteers and community members with information to increase their
14 awareness of their role in protecting children from inappropriate conduct by adults.” The
15 policy defined “[i]nappropriate boundaries” as “acts, omissions or patterns of behavior by a
16 school employee that do not have an educational purpose and result in abuse.” It also
17 provided, “All employees and volunteers will receive training on appropriate staff/student
18 boundaries.” But like the earlier ignored training sessions on sexual molestation, District bus
19 drivers never received these policies or procedures or any training on them before Shafer was
20 arrested for sexual molestation.

23 43. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training. The

24 District brushed aside the importance of training school employees on understanding that a
25 molester’s best camouflage is a school district’s unwillingness to see him. This is particularly
26

1 alarming in light of the research of leading commentators, who teach that accepting that
2 molesters may lurk in our midst is crucial to preventing child abuse:

3 Many educators do not believe that a colleague could sexually exploit a
4 student. They believe that if such abuse happens, it happens in some other
5 community and it is so rare and idiosyncratic that it does not warrant attention.
6 Many believe that educators already know they should not have sexual
7 relationships with students. Consequently, some are insulted when they are
8 required to attend training on this issue. Unfortunately, it is just such attitudes
9 that have created the educational climate that allows sexual abuse to continue.

10 Shoop at 63. By failing to properly train employees, the District and the individually named
11 defendants herein who were responsible for training drivers created a climate that allowed
12 Shafer's sexual abuse to continue.

13 44. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training. The
14 District and its agents, including Defendants Stanley, Greer, and Lahmann acted with
15 deliberate indifference toward the safety of its students, including D.H., by failing to
16 adequately train, monitor, or supervise bus drivers by ensuring that they all understood how to
17 spot the signs of grooming behaviors, professional boundary invasions, or other red flags of
18 sexual abuse.

19 45. Facts; Creation of Danger, Deliberate Indifference, and Lack of Training. The
20 District's employees did not receive crucial training on how to spot molesters. District
21 administrators received "boundary invasion" training in the spring of 2010, which taught
22 about the significant danger of school personnel molesting children and included statistics
23 about the specific danger presented by bus drivers. Despite the considerable value in this
24 training, as Defendant Lahmann acknowledged, District officials became deeply offended by
25 the notion that District might include child predators. District officials thought that the
26 presentation was "negative" and refused to train District employees on the subject of

1 boundary invasions. Defendant Fred Stanley skipped the boundary training, and Defendant
2 Lahmann did nothing to ensure that he was trained or brought the valuable boundary invasion
3 information to the Transportation Department.

4 46. Facts; Deliberate Indifference to the Welfare of Children. Despite clear
5 evidence of significant sexual abuse by Shafer, the District has made little effort to locate and
6 identify 30 or more other children who were sexually abused on its school buses.

7 47. Facts; Danger Creation, Deliberate Indifference, and Lack of Policies and
8 Procedures. The District and its agents, including Defendants Stanley and Lahmann, acted
9 with deliberate indifference toward the safety of its students, including D.H., by failing to
10 promulgate, issue and enforce appropriate policies and procedures concerning ride alongs and
11 reporting sexual abuse. Instead, as explained above, the defendants here did nothing to ensure
12 that Shafer was riding along on school buses for legitimate, approved school purposes; did
13 nothing to track his ride along behaviors; and did nothing to otherwise prohibit his unbridled
14 access to groom and sexually abuse the District's most vulnerable population.

15 48. Facts; Proximate Cause and "State-Created Danger." Defendants Stanley,
16 Greer, and Lahmann acted with deliberate indifference to the frequency in which Shafer was
17 riding along on school buses without pay and without an official purpose, deliberate
18 indifference to the risk that pedophiles posed to children on school buses generally, deliberate
19 indifference to the red flags that Shafer was a threat to children, and deliberate indifference to
20 ensuring that is bus drivers were properly trained on how to spot molesters. As a result of this
21 widespread and alarming deliberate indifference, these individual defendants created the
22 danger that pedophiles like Shafer would have unrestricted access to sexually abuse minors on
23 school buses, which here resulted in the sexual abuse of four-year-old D.H.

49. Damages. As the proximate result of the deliberate indifference to the health and safety of minor sexual abuse Plaintiff D.H., as set forth above, in violation of her Ninth and Fourteenth Amendment rights, Plaintiff suffered from mental anguish and emotional distress. Plaintiff D.H. also suffered damages from being denied the benefits of an education as provided by 20 .S.C. § 1681, *et seq.*

50. Punitive Damages. Defendants acted with callous indifference and with reckless disregard of Plaintiffs' constitutional rights.

V. CAUSES OF ACTION

COUNT I VIOLATION OF CIVIL RIGHTS AS TO STANLEY, GREER, AND LAHMANN (42 U.S.C. § 1983)

51. Civil Rights Violation. Based on the paragraphs set forth and alleged above, Defendants Stanley, Greer, and Lahmann are liable for compensatory and punitive damages for their creation of an actual, particularized danger that Plaintiffs D.H. would be sexually abused by Shafer, done in deliberate indifference toward the safety and wellbeing of D.H., including these defendants' failure to protect the minor plaintiff from sexual abuse and exploitation by a serial pedophile while she was riding a school bus to and from school, and for these defendants' deliberate indifference toward identifying her as sexual abuse victim and reporting the abuse to authorities and to the victims' parents, all done in violation of the Ninth and Fourteenth Amendments and 42 USC § 1983.

COUNT II
VIOLATION OF CIVIL RIGHTS - *MONELL*
AS TO THE DISTRICT
(42 U.S.C. § 1983)

52. Civil Rights Violation. Based on the paragraphs set forth and alleged above, the District is liable for compensatory and punitive damages for its actions in failing to promulgate, issue, and enforce appropriate procedures and policies concerning (1) the reporting of known or suspected sexual abuse of D.H., and (2) the safe transport of its students including D.H., who suffered sexual abuse and exploitation as a direct and proximate result of the District's failures and as a result of deliberate indifference to her wellbeing and safety, as well as for its actions in failing to adequately train, monitor, or supervise its drivers to ensure the safe transport of its students, including D.H., all in violation of the Ninth and Fourteenth Amendments and 42 USC § 1983.

COUNT III
VIOLATION OF TITLE IX
AS TO THE DISTRICT
(20 .S.C. § 1681, *et seq.*)

53. Title IX. Based on the paragraphs set forth and alleged above, the District is liable for compensatory and punitive damages for its actions in creating and/or subjugating Plaintiff D.H. to a hostile educational environment in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a) ("Title IX"), when the District and its officials had actual knowledge of the sexual assaults of D.H. created by its failure to supervise Gary Shafer and protect children, and when the District and its officials failed to take immediate, effective remedial steps to resolve the sexual harassment and instead acted with deliberate indifference toward Plaintiff D.H. and other similarly situated students, the result of which was to exclude

1 Plaintiff from participation in, being denied the benefits of, and being subjected to
2 discrimination in the District's education program in violation of Title IX.

3
4 **COUNT III**
5 **SPOILIATION**
6 **AS TO ALL DEFENDANTS**

7 54. Spoliation. Based on the paragraphs set forth and alleged above, the District
8 and its agents had a duty to preserve evidence related to the sexual abuse of Gary Shafer and
9 yet intentionally took steps to destroy and/or suppress critical evidence of sexual abuse and
10 Gary Shafer's misconduct, hindering Plaintiffs' ability to prove facts in this action. The
11 evidence was destroyed or suppressed in an effort to lessen the risk that the District and its
12 agents would face in this trial and other companion cases, the result of which has caused
13 significant prejudice to Plaintiffs and has given rise to the need for a rebuttable presumption
14 or an inference with regard to the spoliated evidence.

15
16 **VI. RESERVATION OF RIGHTS**

17 55. Reservation of Rights. Plaintiffs reserve the right to assert additional claims as
18 may be appropriate following further investigation and discovery.

19
20 **VII. JURY DEMAND**

21 56. Jury Demand. Under the Federal Rules of Civil Procedure, Plaintiffs demand
22 that this action be tried before a jury.

23
24 **VIII. PRAYER FOR RELIEF**

25 57. Relief. Plaintiff respectfully requests the following relief:
26

- 1 A. That the Court award Plaintiff appropriate relief, to include all special
2 and general damages established at trial;
- 3 B. That the Court impose punitive damages under any provision of law
4 under which punitive damages may be imposed;
- 5 C. That the Court award costs, reasonable attorneys' fees, and statutory
6 interest under any applicable law or ground in equity, including 42
7 U.S.C. § 1988 and all other applicable bases for an award of attorneys'
8 fees and litigation costs;
- 9 D. That the Court award pre-judgment interest on items of special
10 damages;
- 11 E. That the Court award post-judgment interest;
- 12 F. That the Court impose a sanction for the spoliation of evidence, either
13 in the form of a rebuttable presumption or a negative inference with
14 regard to the evidence;
- 15 G. That the Court award Plaintiff such other, favorable relief as may be
16 available and appropriate under law or at equity; and
- 17 H. That the Court enter such other and further relief as the Court may
18 deem just and proper.

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Respectfully submitted,

Dated: June 21, 2016

By: /s/ Darrell L. Cochran
Plaintiffs' Attorney

By: /s/ Kevin M. Hastings
Plaintiffs' Attorney

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